



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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JAN 06 2014

Ref: 8 EPR-N

Ms. Ruth Miller, Project Lead
North Dakota Greater Sage-Grouse EIS
5001 Southgate Drive
Billings, MT 59101

Re: North Dakota Greater Sage-Grouse Draft
Resource Management Plan and Draft
Environmental Impact Statement: CEQ # 20130279

Dear Ms. Miller:

In accordance with our responsibilities under Section 102(2)(C) of the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act (CAA), the U.S. Environmental Protection Agency Region 8 (EPA) has reviewed the Bureau of Land Management's (BLM) Draft Resource Management Plan Amendment (RMPA)/Draft Environmental Impact Statement (DEIS).

Background

In March 2010, United States Fish and Wildlife Service (USFWS) published its listing decision for Greater-Sage-Grouse (GRSG) as "warranted but precluded." Destruction of habitat or range for the GRSG and inadequacy of regulatory mechanisms was identified as a major threat to GRSG in the USFWS findings on the petition to list the species under the Endangered Species Act. The ND Greater-Sage-Grouse DEIS analyzes a range of conservation measures and management actions to achieve the goal of GRSG conservation for the North Dakota Field Office.

The planning area for the North Dakota GRSG Draft RMPA/DEIS consists of approximately 963,017 acres and is composed of the BLM and Forest Service administered lands, the State of North Dakota lands, US FWS-managed lands, and private lands. These lands are in southwestern North Dakota. Unlike several other GRSG RMPAs that are part of the National GRSG Planning Strategy, the Forest Service is not a cooperating agency for this RMPA/DEIS. Therefore, proposed alternatives do not include lands managed by the Forest Service.

In this Draft RMPA/DEIS, BLM examines three action alternatives (Alternatives B, C, and D) which offer a range of possible management approaches to maintain or increase GRSG abundance and distribution in the planning area. Conservation measures in the alternatives are focused on Preliminary Priority Habitat (PPH) and Preliminary General Habitat (PGH). The PPH

(areas that have the highest conservation value to maintaining or increasing sage-grouse populations and PGH (seasonal or year-round habitat outside of PH) have been delineated by the ND Game and Fish Department, in coordination with the BLM Montana Field Office.

Alternatives

Elements Common to Alternatives B, C and D:

- Delineate Lands as Priority (PH) and General Habitat (GH)
 - PPH and PGH data would be refined to delineate PH and analyze actions within PH to conserve or improve habitat functionality.
 - PPH and PGH data would be refined to delineate GH and analyze actions within GH that may impact major life functions in order to maintain genetic diversity needed for sustainable populations.
 - Allowable uses and management actions within PH and GH may vary between alternative to meet the goal of the Draft RMPA/DEIS and objectives of the alternatives.
- Required Design Features to provide a greater level of regulatory certainty than BMPs.
 - Means, measures, or practices intended to reduce or avoid adverse environmental impacts.

Alternative A

No Action.

Alternative B

Conservation measures under Alternative B are focused on PH. These conservation measures include protections such as right-of-way exclusion and fluid mineral leasing closure for PH and habitat restoration/vegetation management, among others.

Alternative C

Conservation measures under Alternative C are focused on both PH and GH with all PH designated as an Area of Critical Environmental Concern to protect GRSG habitat. It also includes management protections such as fluid mineral leasing closure for PH and GH and habitat restoration/vegetation management, among others.

Alternative D (Agency Preferred)

Alternative D, the agency-preferred alternative, allocates limited resources among competing interests. This alternative incorporates local adjustments to *A Report on National Greater Sage-Grouse Conservation Measures* (NTT 2011) to balance protection of GRSG habitat with other ongoing programs and land uses. Conservation measures under Alternative D are focused on both PH and GH. Management protections for PH and GH include open to energy development but No Surface Occupancy for PH and constraints in GH habitat (Controlled Surface Use stipulations). These constraints and stipulations are summarized for all alternatives in Appendix C.

EPA Comments and Recommendations

Mitigation, Monitoring and Adaptive Management:

- The Draft RMPA/DEIS includes a solid commitment to monitoring and reporting implementation progress and effectiveness of the conservation efforts (pg. 2-13). The monitoring activities will evaluate both disturbances of GRSG habitat as well as landscape habitat attributes. The Monitoring Framework, to be finalized and included in the RMPA/FEIS, will be used to determine when adaptive management triggers are met. This addresses previous scoping comments from the EPA. When implemented through the Record of Decision and other future decisions, there will be increased protections and enhancement of GRSG habitat. We recommend that the FEIS address some of the potential impediments to implementation such as lack of funding for habitat improvement.
- Page 2-14 indicates that state fish and wildlife agencies have primary responsibility for population level management of wildlife, including population monitoring. The planning area represents a patchwork of surface ownership including private, state and federal lands. The partnerships and collaboration across jurisdictional boundaries that has been established for this action would likely assure consistency in approach and the effectiveness of the management actions. However, it is not clear from this discussion how complicated collaboration across jurisdictional boundaries will occur, especially given that 31 percent of the planning area is private lands. Is this collaboration linked to Appendix E description of the Mitigation Implementation Team for the Management Zone 1 Western Association of Fish and Wildlife Agencies? If so, how are these mitigation strategies implemented on private lands?

Climate Change:

- The Draft RMPA/ DEIS adequately describes climate conditions and climate change, in general, under Existing Conditions and Cumulative Impacts. However, the EPA recommends that the FEIS describe the effects of Climate Change *on* GRSG populations for both of these sections of the report.

EPA Rating

The BLM has selected Alternative D as its Preferred Alternative for the Draft RMPA/DEIS. Based on our review, the EPA is rating the Draft RMPA/DEIS Preferred Alternative as “Environmental Concerns –Adequate” (EC-1). The “EC” rating means that the EPA’s review has identified potential impacts that should be avoided in order to fully protect the environment. Although the document identifies activities that will improve and protect GRSG habitat, North Dakota GRSG populations may not achieve sustainable levels and there remain uncertainties in the Adaptive Management Plan implementation and effectiveness. We have enclosed a description of the EPA’s rating system for your convenience (Attachment 1).

We appreciate the opportunity to comment on this Draft RMPA/DEIS. If you have any questions, please feel free to contact me at 303-312-6925 or Robin Coursen of my staff at 303-312-6695, email: coursen.robin@epa.gov.

Sincerely,



Suzanne J. Bohan
Director, NEPA Compliance and Review Program
Office of Ecosystems Protection and Remediation

Enclosure 1: EPA Rating Criteria



U.S. Environmental Protection Agency Rating System for Draft Environmental Impact Statements

Definitions and Follow-Up Action*

Environmental Impact of the Action

LO - - Lack of Objections: The Environmental Protection Agency (EPA) review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC - - Environmental Concerns: The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce these impacts.

EO - - Environmental Objections: The EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no-action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU - - Environmentally Unsatisfactory: The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

Adequacy of the Impact Statement

Category 1 - - Adequate: EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis of data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2 - - Insufficient Information: The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new, reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses or discussion should be included in the final EIS.

Category 3 - - Inadequate: EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the National Environmental Policy Act and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

* From EPA Manual 1640 Policy and Procedures for the Review of Federal Actions Impacting the Environment. February, 1987.

